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February 21, 2011

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: Reporting of Ineligible Lines by Post-Merger
Verizon Wireless and Alltel
CC Docket No. 96-45, WC Docket No. 05-337

Dear Ms. Dortch:

We write in response to correspondence submitted by Verizon Wireless on February 3, 2011 in the above-captioned dockets.¹ At the outset, the Commission can dispense with Verizon Wireless' attempt to portray itself as the protector of the public interest, while other parties seek only their self-interest.² Every private party appearing before this Commission is self-interested, including Verizon Wireless. All we request is that the facts and the law be followed to reach proper conclusions, and that the Commission conduct a fact-based analysis, which the Chairman has properly insisted upon throughout his tenure.³

¹ Ex Parte Letter from Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 05-337, filed Feb. 3, 2011) ("Verizon Wireless Letter").

² See, e.g., Verizon Wireless Letter at 1-2 (suggesting that "much of the support recaptured from Verizon Wireless . . . would instead be funneled to the Complainant ETCs").

³ See, e.g., *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona, Metropolitan Statistical Area*, WC Docket No. 09-135, Memorandum Opinion and Order, 25 FCC Rcd 8622, 8685 (2010) (Statement of Chairman Julius Genachowski) (indicating that the Order "provides a clear, data-driven" framework for evaluating forbearance petitions); *id.* at 8686 (Statement of Commissioner Michael J. Copps) ("commend[ing] Chairman Genachowski for demonstrating . . . his commitment to conducting fact-based and data-driven proceedings").

DISCUSSION

Verizon Wireless repeatedly ignores or evades central facts that form the basis of our claims. In some instances, Verizon Wireless' arguments mislead, perhaps unintentionally. Below, we provide a short rebuttal, covering five key points.

1. Verizon Wireless is Not Eligible to be an ETC Until it is Designated by a State Commission.

Throughout twelve pages, Verizon Wireless focuses on line count filing procedures, and the informal advice it received from Wireline Competition Bureau staff. It professes concern that state commissions are going to become confused, as if they are incapable of understanding Section 214 of the Communications Act of 1934, as amended ("Act") and their proper role in determining whether a carrier is eligible to be designated as an ETC.⁴

States have sole authority to determine whether a carrier is eligible, and nothing in Section 214(e)(2) of the Act confers upon a carrier the right to declare itself eligible.⁵ Verizon Wireless' correspondence fails to deal squarely with the fact that Verizon Wireless began treating itself as eligible to receive support following its acquisition of Alltel, a company now residing within the Verizon organizational chart.

When a new controlling party enters the picture, the accepted practice in the states is to obtain guidance from the designating authority, *in advance*. For example, when U.S. Cellular acquired some Western Wireless properties several years ago in Nebraska and Kansas, it consulted state commissions. In Kansas, it did so even though it was already an ETC in the state, and the Kansas Commission required that a filing be made to expand its ETC status. As we demonstrated in papers filed earlier with the Commission, AT&T Wireless consulted with state commissions in advance of drawing funds from USAC.⁶

⁴ See Verizon Wireless Letter at p. 12 ("It is also clear that the Complainant ETCs' efforts to generate discord surrounding Verizon Wireless' continued service as an ETC have succeeded in creating confusion among the state regulatory commissions.")

⁵ Verizon Wireless claims that "the ETC obligations apply throughout the designated 'service area' and apply regardless of whether the network serving the service area was originally constructed by the ETC, a carrier it acquired or a carrier that acquired it." Verizon Wireless Letter at 6. Verizon Wireless provides no support or rationale for this claim. As we discuss, this claim is in direct conflict with the authority of state commissions established in Section 214(e) of the Act.

⁶ See letter from David A. LaFuria to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 05-337, filed Dec. 3, 2010) at p. 3.

The statute gives state commissions the responsibility to determine whether a carrier will meet the requirements of Section 214(e)(1),⁷ and (in the case of carriers seeking to operate as ETCs in areas already served by a rural telephone company) to determine whether designation of a carrier as an ETC is in the public interest.⁸ A state commission's ability to fulfill these responsibilities is improperly frustrated when a carrier simply decides to step into the shoes of a previously designated ETC, and to begin drawing universal service support for its own subscribers in the designated ETC service area, without affording the state commission any opportunity to evaluate its qualifications and commitments, and to determine whether it meets the requirements of Section 214(e)(1) and the public interest test established in Section 214(e)(2), if applicable.

It therefore was wrong for Verizon Wireless to consummate a complicated transaction and pocket Alltel support without notifying state authorities in advance. And it is wrong for Verizon Wireless to come before the FCC seeking absolution for sins committed across the country. There is no legal authority supporting Verizon Wireless' position -- only the informal and non-binding staff advice that Verizon Wireless claims it was provided.

Verizon Wireless' latest ex parte, dated February 17, 2010, asserts that its selection of Option B under the interim cap "necessarily contemplates that Verizon Wireless and its affiliated companies would remain eligible" following the closing of its Alltel acquisition. This statement borders on the absurd. Verizon Wireless may have contemplated continued eligibility, but the statute does not. In order to select Option B, a carrier must be designated as an ETC by the appropriate state authority.

In addition, exposed to some scrutiny, Verizon Wireless is showing itself to be unqualified to be an ETC. For example, in South Dakota, Verizon Wireless divested all of the acquired Alltel assets, yet it unilaterally decided to treat the legacy Verizon Wireless enterprise as "eligible" to draw from the federal fund without ever applying to be an ETC. In response to discovery requests, Verizon Wireless reports having only 41 Lifeline customers in the entire state. At the time of the acquisition in 2009, Alltel had over 4,000 Lifeline customers in South Dakota. According to Verizon Wireless, these 4,000 low-income households were transferred to AT&T Wireless as a part of the divestiture.

AT&T Wireless is not an ETC in South Dakota. Verizon Wireless admits in discovery that no provisions were made for these 4,000 low-income customers. The state commission has no understanding at this time whether those low-income customers were excused from their early termination fees, whether they have been forced to buy a new handset to operate on AT&T's network, whether AT&T even has service in the area where they require service, or whether

⁷ Section 214(e)(1) of the Act requires ETCs to offer services supported by Federal universal service support mechanisms throughout their designated services areas, and to advertise the availability of these services.

⁸ 47 U.S.C. § 214(e)(2).

Verizon Wireless has advised those customers of the availability of discounted service from other CETCs in the state, where applicable. These issues, properly addressed in the course of an ETC designation case, are the *sine qua non* to Verizon Wireless becoming qualified to be an ETC in South Dakota.

Facts that have come to light in the South Dakota proceeding illustrate the dangers inherent in Verizon Wireless' efforts to circumvent and neutralize the authority extended to state commissions by Section 214 of the Act. If what Verizon Wireless has conceded in discovery is established at the upcoming hearing, it is certainly questionable whether the South Dakota Public Utilities Commission would find Verizon Wireless to be eligible.⁹

It appears that Georgia has reached a similar conclusion. Today, the Georgia Public Service Commission ("Georgia PSC"), in a unanimous vote, adopted an Order concluding that it has never designated Verizon Wireless as an ETC in Georgia and that the Georgia PSC has never authorized Verizon Wireless to receive high cost funding from the Universal Service Fund for its "legacy" Verizon Wireless customers in Georgia. The Georgia PSC announced its intention to provide a certified copy of its Order to USAC so that USAC can take whatever corrective action it deems appropriate. Copies of today's order and letter are enclosed for your reference.

Accordingly, any argument from Verizon Wireless that this is an issue of line count filings must be rejected. Indeed, if the FCC takes any action, it should be to direct USAC to immediately stop providing high-cost support to Verizon Wireless until state commissions get to the bottom of Verizon Wireless' eligibility issue.¹⁰

2. Funds that Verizon Wireless Improperly Drew Must be Redistributed to Other Eligible Carriers.

Since January of 2009, Verizon Wireless has been drawing funds without proper authority in a number of states. If states find Verizon Wireless to be ineligible to draw funds from January of 2009 forward, then USAC must reclaim those funds from Verizon Wireless.

⁹ In a somewhat confusing process, Verizon Wireless asserts that it is only "amending" an existing designation in South Dakota, not applying anew. Yet, in testimony, it has attempted to back-fill its application with showings that would ordinarily be made when a company files a new application for ETC status. Obviously, if such a showing is needed, then an application for ETC status should have been filed. Of course, in so doing, Verizon Wireless would be forced to concede that the only reason it is "applying" for ETC status is because it has not been granted an ETC designation by the state commission.

¹⁰ In the case of South Dakota, support should continue to be provided to the 41 existing Lifeline subscribers.

Without question, funds disbursed to Verizon Wireless (but which Verizon Wireless was not eligible to receive) before or after the FCC adopted *Corr Wireless I*¹¹ and *Corr Wireless II*¹² are not subject to these FCC decisions.¹³ Moreover, to the extent Verizon Wireless received high-cost support for which it was not eligible, there is no basis to reduce funding to existing carriers based upon the Commission's actions in *Corr Wireless I* or *Corr Wireless II*.

No reasoned reading of those two decisions would lead anyone (other than Verizon Wireless) to conclude that support for lines that never should have been submitted to USAC in the first place, and which reduced the funding that other ETCs would have otherwise received, should not be redistributed to them so that they can meet commitments made to state commissions to expand service to unserved and underserved areas.

3. **Verizon Wireless' Attempt to Cite AT&T's Actions Provides no Safe Harbor.**

Verizon Wireless cites actions taken by AT&T Wireless in communications with state public utility commissions, which Verizon Wireless claims to support its position. They do not.

AT&T's communications involved merging two separate ETC designations within a state under one corporate entity, i.e., the acquired entity "ceased to exist." In Verizon Wireless' case, the acquired entity remains in existence, as a part of the Verizon Wireless ownership structure, separate and apart from the corporate entity that controls the Verizon Wireless operations.

Moreover, AT&T Wireless was already designated as an ETC within Virginia. With the FCC having previously passed on AT&T Wireless' qualifications to be an ETC pursuant to Section 214(e)(6), the FCC could reasonably allow it to assume control of the Highland designation. The contemplated AT&T transaction did *not* involve AT&T Wireless acquiring an ETC company, divesting that company's assets to a third party, and then filing legacy AT&T line counts without ever obtaining Commission authority to do so.

¹¹ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Request for Review by Corr Wireless Communications, LLC, of Decision of Universal Service Administrator*, CC Docket No. 96-45, WC Docket No. 05-337, Order and Notice of Proposed Rulemaking, 25 FCC Rcd 12854 (2010) ("*Corr Wireless I*"). Verizon Wireless contends that arguments made by Carriers in their *ex parte* filings with the Commission "cannot be squared" with the *Corr Wireless I* decision because the Commission gave Verizon Wireless the option to increase line counts based on current quarter data. Verizon Wireless Letter at 7. Verizon Wireless' claim is unfounded, because *Corr Wireless I* contemplated permitting Verizon Wireless to count additional *authorized* lines, not lines submitted by Verizon even though it was not eligible to do so.

¹² *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, WC Docket No. 05-337, Order, FCC 10-25 (rel. Dec. 30, 2010) ("*Corr Wireless II*"). We note that the order remains subject to reconsideration or appeal.

¹³ *Corr Wireless I* repurposed high-cost support voluntarily surrendered by Verizon Wireless and Sprint Nextel, and *Corr Wireless II* ruled that all high-cost support given up through relinquishment, revocation, or rescission following the effective date of the *Corr Wireless II* Order (December 30, 2010) would be repurposed.

We also note that AT&T Wireless' communications to the FCC on this matter were in advance of its taking action to consolidate the ETC designations under one corporate roof. Not after. Unlike the situation in so many states as a result of Verizon Wireless' actions, the FCC was given an opportunity to react in advance.

AT&T Wireless' actions were transparent. Unlike Verizon Wireless, which held private and undisclosed meetings with USAC, and obtained informal and non-binding FCC staff advice, AT&T made its intentions known publicly by filing its communications with the FCC in the public record, available on the Electronic Comment Filing System,¹⁴ providing outside parties with advance notice and an opportunity to object.

At least from what Verizon Wireless has provided with respect to the AT&T Wireless communications to the FCC, it is reasonable to believe that if Verizon Wireless had followed that lead, these issues would have been joined long ago and Verizon Wireless would not have had an opportunity to make unauthorized withdrawals from the fund. In sum, Verizon Wireless' citation of AT&T Wireless as precedent for its actions is grossly misplaced, and fairly audacious.

4. Undersigned Counsel Raised This Issue in a Timely-Filed Petition for Reconsideration.

Verizon Wireless would have the Commission believe that our efforts represent a late-filed collateral attack on various Commission actions. In fact, we raised this issue on behalf of three affected companies in a timely-filed petition for reconsideration, filed in December of 2008, shortly after the Verizon Wireless – Alltel merger was approved, and well before it closed.¹⁵ In that petition, we warned of the very possibility of Verizon Wireless submitting legacy line counts to increase its support under the interim cap without having received a grant of ETC status. That petition, which spotted the issue immediately, remains pending. The fact that the opportunity to provide early and clear guidance has passed does not preclude the Commission from reaching a proper resolution.

¹⁴ See, <http://fjallfoss.fcc.gov/ecfs/document/view?id=6520184059> .

¹⁵ See Petition for Reconsideration or, in the Alternative, Clarification filed by United States Cellular Corp., Carolina West Wireless, Inc., and N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless, WT Docket No. 08-95, File Nos. 0003463892, *et al.*, ITC-T/C-20080613-00270, *et al.* (December 10, 2008) at p. 3 <http://fjallfoss.fcc.gov/ecfs/document/view?id=6520190735> (“...Petitioners may be adversely affected by the operation of VZW’s step-down commitment, depending upon whether VZW is permitted to merge a subsidiary license company into an entity that is currently an ETC. In such a scenario, VZW could seek to submit its currently ineligible line counts to USAC through Alltel’s ETC-eligible entity. In so doing, VZW would significantly increase its support and by virtue of the interim cap imposed by the Commission, reduce support to other ETCs within the state.”)

5. There is a Simple Remedy to Verizon Wireless' Commingling of Customer Data.

Verizon Wireless continues to claim that there is nothing the Commission can do, because data for customers of Verizon Wireless and Alltel is now commingled. As Verizon Wireless surely knows, an act of commingling customer data, without authority, can have serious consequences. In several states, those consequences are playing out, and they must be permitted to play out.

It is disingenuous for Verizon Wireless to claim that the act of commingling should cause everyone to conclude that nothing can be done. Quite to the contrary, there's a simple solution that is both just and reasonable:

- The FCC, either in response to a state commission request, or on its own motion, should immediately suspend all high-cost support to Verizon Wireless and open an independent investigation by the Enforcement Bureau.
- When states complete their review of Verizon Wireless' eligibility, as Georgia did today, then USAC can be instructed to take appropriate action. If a state determines that Verizon Wireless was not eligible to be an ETC as of January 9, 2009, then support must be disgorged and redistributed to other eligible carriers who have been playing by the rules and are properly and legally eligible to receive support.
- If and when Verizon Wireless obtains ETC status from a state, it may then file line counts reflecting the company, enterprise, and network on which the appropriate state agency has passed upon. Verizon Wireless' ETC status in any state would begin from the time it is designated anew.

CONCLUSION

Perhaps most disturbing about Verizon Wireless' rather arrogant actions, is the significant harm it causes to rural citizens. To date, Verizon Wireless has given little indication as to what it has done with the hundreds of millions in support it has received on Alltel's behalf since the merger closed in January of 2009.

In the meantime, other companies, who have made specific commitments to state commissions, and have been investing support as required and for the benefit of rural citizens, are seeing their support being diverted to Verizon Wireless' coffers. Those diverted funds are not available for investment by companies who are serious about this program, many of whom

are also small business enterprises. The funds are not available to rural citizens in areas that need improved coverage that undersigned companies are attempting to provide.

Verizon Wireless seeks from this Commission a protective order¹⁶ that steps squarely on state jurisdiction over ETC designations pursuant to Section 214(e)(2) of the Act. It is interested in cutting funding to rural areas, weakening its competitors, and reducing its corporate contributions into the universal service fund. Its actions to date represent an egregious breach of the public trust.

Recently, the President set the nation on a course to accelerate wireless broadband.¹⁷ Ensuring that existing universal service support flows only to those carriers who are serious about investing in rural America would do just that. Accordingly, we urge the FCC to refrain from interfering with ongoing state proceedings and investigations, and to follow the law and the facts to conclusions that serve rural consumers, not any one company's interests.

If you have any questions or require any additional information, please contact undersigned counsel directly.

Sincerely,



David LaFuria
Steven Chernoff
John Cimko
Todd Lantor

Enclosures

¹⁶ See Verizon Wireless Letter at 3-4.

¹⁷ See, e.g., this year's State of the Union address and the President's recent event in Marquette Michigan. "Remarks by the President on the National Wireless Initiative in Marquette, Michigan," Feb. 10, 2011.

Hon. Marlene H. Dortch

February 21, 2011

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DOCKET #	33387
DOCUMENT #	134293

Docket No. 33387

In Re: Petition for Expedited Declaratory Ruling Regarding the Filing of Unauthorized Line Counts by Cellco Partnership d/b/a Verizon Wireless For Purposes of Receiving High-Cost Support From the Federal Universal Service Fund

ORDER ON JOINT PETITION FOR DECLARATORY RULING

I. Factual and Procedural Background

Allied Wireless Communications Corporation ("Allied") and Georgia RSA #8 Partnership (collectively "Petitioners") filed a Joint Petition for expedited declaratory ruling before the Georgia Public Service Commission on January 21, 2011. Petitioners seek to prevent Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless") from claiming "legacy" subscriber lines in Georgia (i.e., lines that comprised Verizon Wireless' customer base in Georgia before its acquisition of Alltel Communications, Inc. ("Alltel") for the purpose of receiving high-cost support from the Universal Service Fund ("USF"). Petitioners allege that Georgia will lose \$7.73 million in annual high-cost support to providers in rural areas if Verizon Wireless is permitted to treat the lines as eligible for USF support.

Verizon Wireless acquired Alltel in November 2008. Alltel operated in several areas of Georgia and was designated by the Commission as an Eligible Telecommunications Carrier ("ETC") in October 2007. Verizon Wireless also served areas in Georgia prior to the acquisition of Alltel, but has never been designated by the Commission as an ETC. As part of the merger of Verizon Wireless and Alltel, the Federal Communications Commission imposed a condition requiring Verizon Wireless to forgo high-cost USF support for Alltel areas it retained in 20% phase-down increments for five years ending in 2012. Verizon Wireless was also required to divest Alltel's network assets and licenses in several areas within Georgia, including Georgia RSA Nos. 6 through 11 and 13, which were transferred to Allied.

In the meantime, the FCC issued two orders, the *Interim Cap Order*¹ in August 2008 and the *Corr Wireless Order*² in September 2010. In the *Interim Cap Order*, the FCC imposed a cap

¹ *High-Cost Universal Service Support*, Order, 23 FCC Rcd. 8834, 8850 (2008) ("*Interim Cap Order*"), *aff'd*, *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009).

on support to competitive ETCs in each state so that each ETC was required to share a fixed amount of support equal to the amount all ETCs in the state were eligible to receive during March 2008, on an annualized basis. Hence, a reduction in support for one ETC meant that more support would be available to the remaining ETC in that state. In the *Corr Wireless Order*, the FCC made an exception to the interim cap whereby Verizon Wireless' phase-down of support would not be made available to other ETCs, but instead would be held by the FCC and used for broadband universal service reforms.

In early 2009, Petitioners allege that Verizon Wireless began counting its "legacy" subscriber lines, including lines in divested areas, and reporting the counts to the Universal Service Administrative Company ("USAC") for increased USF funding despite never being designated as an ETC in Georgia. The Petitioners allege that Verizon Wireless' line counts in Georgia increased by 79%, and in some rural areas the line counts nearly tripled. The increased line counts allegedly amounted to tens of millions of dollars of increased USF funding.

The Petitioners make three requests of the Commission: (1) suspend Verizon Wireless' eligibility to draw support from the high-cost fund by informing USAC that Verizon Wireless is under investigation; (2) declare that Verizon Wireless was never designated as an ETC in Georgia and that Verizon Wireless must first be designated to report "legacy" lines and receive USF funding; and (3) notify USAC that Verizon Wireless has not been designated as an ETC in Georgia and that Verizon Wireless "legacy" lines are not eligible for high-cost USF funds.

Verizon Wireless filed a Response to the Petition on February 2, 2011 and raised several arguments. First, Verizon Wireless contends that the Petition is defective because it fails to conform to the requirements of Rule 515-2-1-.12. Second, Verizon Wireless also contends that the relief requested is pre-empted by federal law and FCC USF rules. Specifically, Verizon Wireless argues that Petitioners' grievances were addressed in the FCC's *Interim Cap Order* and 47 C.F.R. §§ 54.307 and 54.802, and that Petitioners must pursue USAC and FCC review. Third, Verizon Wireless contends that Alltel's lines and Verizon Wireless' "legacy" lines are now fully integrated and cannot be separated for identification. Finally, Verizon Wireless argues that expedited review is not warranted because USF funds can be redistributed at a later time if errors are found and the Petitioners already have opportunities for review through the FCC.

Staff requested that the parties present any factual disputes to the Commission by February 7, 2011. In response, the parties did not present any specific factual disputes requiring a hearing other than the legal arguments noted above.

On February 9, Public Service Telephone petitioned for intervention, and filed comments encouraging the Commission to request that the USAC audit Verizon Wireless to determine the amount of federal universal service support it has received for the State of Georgia and any other state for which Verizon Wireless claimed support prior to obtaining ETC designation.

² *High-Cost Universal Service Support*, Order, 23 FCC Rcd. 8834, 8850 (2008) ("*Interim Cap Order*"), *aff'd*, *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009).

II. Jurisdiction

The Commission has general jurisdiction over telephone and telecommunications companies under O.C.G.A. § 46-1-1 *et seq.*, 46-2-20 and 46-2-23. In addition, the Commission administers the Georgia Telecommunications and Competition Development Act, O.C.G.A. § 46-5-160 through 174. Furthermore, pursuant to Section 214(e)(2) of the Federal Telecommunications Act, state commissions are authorized to designate common carriers as eligible telecommunications carriers. The Commission is authorized “to act in accordance with federal laws or regulations of the Federal Communications Commission.” O.C.G.A. § 46-5-222(b)(3).

The Administrative Procedure Act, O.C.G.A. § 50-13-1 through 23, directs agencies to provide by rule for the filing and prompt disposition of petitions for declaratory rulings. O.C.G.A. § 50-13-11. The Commission’s duly promulgated Rule 515-2-1-.12 identifies what must be included in a petition for declaratory ruling, sets forth the requirements for service on interested parties and establishes that no evidentiary hearings shall be held if there is no dispute as to any material fact.

III. Conclusions of Law

Staff recommended that the Commission conclude that it has not designated Verizon Wireless as an ETC in Georgia. Furthermore, Staff recommended that the Commission conclude that its orders do not authorize Verizon Wireless to receive high cost funding from the universal service fund in relation to its “legacy” Verizon Wireless customers in Georgia. Finally, Staff recommended that the Commission provide a certified copy of its order on the Joint Petition to USAC. For the reasons set forth below, the Commission adopts the Staff’s recommendation.

Verizon Wireless argued that the Petition for Declaratory Ruling was procedurally defective because it did not comply with Commission Rule 515-2-1-.12, which provides that a petition for a declaratory ruling must state the following:

- (a) The name and post office address of the petitioner;
- (b) The full text of the statute, rule, order upon which a ruling is requested;
- (c) A paragraph statement of all pertinent and existing facts necessary to a determination of the applicability of the quoted statute or rule;
- (d) Petitioner’s contention, if any, as to the aforesaid applicability with citations of legal authorities, if any, that authorize, support, or require a decision in accordance therewith;
- (e) A statement setting forth in detail the petitioner’s interest in the matter and why and how the petitioner is uncertain or insecure with respect to his rights. The petition shall be verified under oath by, or in proper behalf of, the petitioner.

The Petition includes the name and address of counsel for the Joint Petitioners. The Petition includes the full text of 47 U.S.C. § 214(e)(2), which is the provision upon which the Joint

Petitioners seek clarification. (Joint Petition, p. 1). The Petition includes a statement of all pertinent and existing facts necessary to a determination of the applicability of the quoted statute or rule. *Id.* at 3-15. The Petition includes an argument that 47 U.S.C. § 214(e)(2) applies because this code section sets forth the authority of state commissions to designate carriers as ETCs. Joint Petitioners contend that this Commission did not designate Verizon Wireless as an ETC, and that, therefore, Verizon is not authorized to receive USF funding with regard to its “legacy” customers in Georgia. *Id.* at 11-15. Joint Petitioners also explain the potential impact of this issue on the ability of other ETCs in Georgia to build out their networks in Georgia. Specifically, the Petition alleges that the increases in the number of lines that Verizon Wireless has claimed as eligible for USF support have resulted in cap reductions to other ETCs in this state. *Id.* at 13-14. On February 9, 2011, the Joint Petitioners supplemented their initial filing with a verification under oath. Therefore, the Commission agrees with and adopts the Staff’s finding that the Petition for Declaratory Ruling is not procedurally deficient.³

Independent of the Joint Petition, it is within the Commission’s authority to clarify that it has not authorized Verizon Wireless to receive ETC funding from the USF in connection with its “legacy” customers. The Commission is authorized to designate a common carrier as an ETC provided that it meets the standards set forth in applicable law. 47 U.S.C. § 214(e)(2). Georgia law expressly preserves the Commission’s authority to act “in accordance with federal laws.” O.C.G.A. § 46-5-222(b)(3). The Commission is charged with considering the public interest when designating additional ETCs for rural areas. *Id.* The Commission has not designated Verizon Wireless as an ETC pursuant to 47 U.S.C. § 214(e)(2), and did not make any public interest findings with regard to Verizon Wireless being designated as a ETC in Georgia.

Verizon Wireless contends that the Petitioners’ request is a collateral attack on the FCC’s federal universal service funding decisions. (Response, p. 5). However, a decision by a state commission explaining the actions that it took, or did not take, under 47 U.S.C. § 214(e)(2) is not a collateral attack on such FCC decisions.

In addition, Verizon Wireless charges that the line counting and USF support disputes are federal law issues that are outside of this Commission’s jurisdiction. The Staff recommendation that the Commission is adopting does not involve a determination by this Commission of a specific number of high cost lines for which Verizon Wireless is entitled to receive high cost funding from the USF. Similarly, the Commission is not identifying the specific dollar amount that Verizon Wireless is due from the fund. Instead, consistent with Staff’s recommendation, the Commission is merely clarifying that it has not authorized Verizon Wireless to receive USF funding related to its “legacy” customers.

³ Commission Rule 515-2-1-.12(4)(b) provides that the Commission is not precluded from acting upon informal requests for clarification on the applicability of a statute. Therefore, even if the Joint Petition failed to satisfy the requirements of the Commission rule, the Commission may nonetheless deem it appropriate to act upon it.

IV. Ordering Paragraphs

WHEREFORE, IT IS ORDERED, that the Commission concludes that it has not designated Verizon Wireless as an ETC in Georgia.

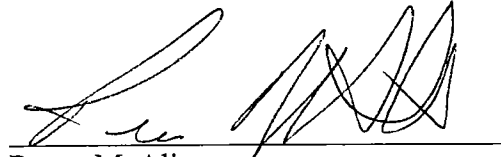
ORDERED FURTHER, that the Commission conclude that its orders do not authorize Verizon Wireless to receive high cost funding from the universal service fund in relation to its "legacy" customers in Georgia.

ORDERED FURTHER, that the Commission will provide a certified copy of this order on the Joint Petition to USAC.

ORDERED FURTHER, a motion for reconsideration, rehearing or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

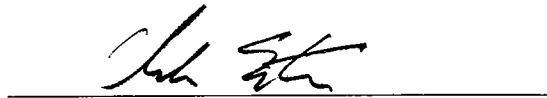
ORDERED FURTHER, jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders, as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 21st day of February 2011.



Reece McAlister
Executive Secretary

2/21/11
Date



Chuck Eaton
Vice-Chairman

2/21/11
Date

COMMISSIONERS:

STAN WISE, CHAIRMAN
CHUCK EATON
TIM G. ECHOLS
H. DOUG EVERETT
LAUREN "BUBBA" McDONALD, JR.



FILED

FEB 21 2011

DEBORAH K. FLANNAGAN
EXECUTIVE DIRECTOR

REECE McALISTER
EXECUTIVE SECRETARY

Georgia Public Service Commission

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February 21, 2011

Scott Barash
CEO
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Dear Mr. Barash,

Please find attached the *Order on Declaratory Ruling* of the Georgia Public Service Commission ("GPSC") in response to the Joint Petition for Declaratory Ruling filed by Allied Wireless Communications Corporation ("Allied") and Georgia RSA #8 Partnership (collectively "Petitioners"). The Joint Petition alleged that the line counts filed by Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless") with the Universal Service Administrative Company included lines for which Verizon Wireless was not entitled to high-cost support.

As detailed in the attached Order, the Joint Petition addressed the acquisition of Alltel Communications, Inc. ("Alltel") by Verizon Wireless in November 2008. Alltel operated in several areas of Georgia and was designated by the GPSC as an Eligible Telecommunications Carrier ("ETC") in October 2007. Verizon Wireless also served areas in Georgia prior to the acquisition of Alltel, but has never been designated by the GPSC as an ETC. The Petitioners alleged that, in early 2009, Verizon Wireless began counting its legacy lines and lines in areas that were divested pursuant to the Federal Communication Commission's merger order and reporting the line counts to the Universal Service Administrative Company for increased USF funding despite never being designated as an ETC in Georgia. The Petitioners requested that the GPSC (1) suspend Verizon Wireless' eligibility to draw support from the high-cost fund by informing USAC that Verizon Wireless is under investigation; (2) declare that Verizon Wireless was never designated as an ETC in Georgia and that Verizon Wireless must first be designated to report legacy lines and receive USF funding; and (3) notify USAC that Verizon Wireless has not been designated as an ETC in Georgia and that Verizon Wireless legacy lines are not eligible for high-cost USF funds. Verizon Wireless did not dispute that the lines being reported to USAC by Alltel included legacy Verizon Wireless lines within the area for which Alltel has received ETC designation.

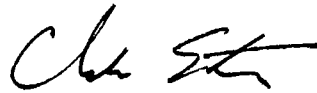
February 21, 2011

Page 2

In response to the Joint Petition, the GPSC clarified that it has not designated Verizon Wireless as an ETC in Georgia, and that its orders do not authorize Verizon Wireless to receive high cost funding from the universal service fund in relation to its legacy customers in Georgia. In addition, the GPSC stated that it would provide a certified copy of its order on the Joint Petition to USAC. Accordingly, the GPSC provides the attached Order so that USAC may be fully informed in its evaluation of the line counts that are submitted to it, and so that USAC may take whatever action it deems necessary and appropriate.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chuck Eaton', with a stylized flourish at the end.

Chuck Eaton
Vice-Chairman
Georgia Public Service Commission